

AMENDED IN ASSEMBLY MARCH 20, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1732

Introduced by Assembly Member Campos

February 16, 2012

An act to amend Section 48900 of the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

AB 1732, as amended, Campos. Pupils: suspension or expulsion: *bullying*: impersonation.

Existing law prohibits the suspension, or recommendation for expulsion, of a pupil from school unless the school district superintendent or the school principal determines that the pupil has committed any of various specified acts, including, but not limited to, *bullying, as defined. Existing law defines bullying as any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, which includes, among other things, a post on a social network Internet Web site, and including one or more acts, as specified, committed by a pupil or group of pupils, directed toward one or more pupils that has or can be reasonably predicted to have one or more specified effects.*

~~This bill would include knowingly and without consent credibly impersonating another person, as specified, as an act for which a pupil may be suspended or expelled from school. The bill would require a pupil who engages in this impersonation conduct to attend a diversion class with his or her parents or legal guardian. The bill also would prohibit a pupil who successfully completes the diversion class from being suspended or recommended for expulsion.~~

This bill would identify specific conduct that would constitute a post on a social network Internet Web site, including posting to or creating a burn page, as defined, creating a credible impersonation of a person, as defined, and creating a false profile, as defined.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 48900 of the Education Code, as amended
2 by Section 6 of Chapter 732 of the Statutes of 2011, is amended
3 to read:
4 48900. A pupil shall not be suspended from school or
5 recommended for expulsion, unless the superintendent or the
6 principal of the school in which the pupil is enrolled determines
7 that the pupil has committed an act as defined pursuant to any of
8 subdivisions (a) to ~~(s)~~ (r), inclusive:
9 (a) (1) Caused, attempted to cause, or threatened to cause
10 physical injury to another person.
11 (2) Willfully used force or violence upon the person of another,
12 except in self-defense.
13 (b) Possessed, sold, or otherwise furnished a firearm, knife,
14 explosive, or other dangerous object, unless, in the case of
15 possession of an object of this type, the pupil had obtained written
16 permission to possess the item from a certificated school employee,
17 which is concurred in by the principal or the designee of the
18 principal.
19 (c) Unlawfully possessed, used, sold, or otherwise furnished,
20 or been under the influence of, a controlled substance listed in
21 Chapter 2 (commencing with Section 11053) of Division 10 of the
22 Health and Safety Code, an alcoholic beverage, or an intoxicant
23 of any kind.
24 (d) Unlawfully offered, arranged, or negotiated to sell a
25 controlled substance listed in Chapter 2 (commencing with Section
26 11053) of Division 10 of the Health and Safety Code, an alcoholic
27 beverage, or an intoxicant of any kind, and either sold, delivered,
28 or otherwise furnished to a person another liquid, substance, or
29 material and represented the liquid, substance, or material as a
30 controlled substance, alcoholic beverage, or intoxicant.
31 (e) Committed or attempted to commit robbery or extortion.

1 (f) Caused or attempted to cause damage to school property or
2 private property.

3 (g) Stolen or attempted to steal school property or private
4 property.

5 (h) Possessed or used tobacco, or products containing tobacco
6 or nicotine products, including, but not limited to, cigarettes, cigars,
7 miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew
8 packets, and betel. However, this section does not prohibit use or
9 possession by a pupil of his or her own prescription products.

10 (i) Committed an obscene act or engaged in habitual profanity
11 or vulgarity.

12 (j) Unlawfully possessed or unlawfully offered, arranged, or
13 negotiated to sell drug paraphernalia, as defined in Section 11014.5
14 of the Health and Safety Code.

15 (k) Disrupted school activities or otherwise willfully defied the
16 valid authority of supervisors, teachers, administrators, school
17 officials, or other school personnel engaged in the performance of
18 their duties.

19 (l) Knowingly received stolen school property or private
20 property.

21 (m) Possessed an imitation firearm. As used in this section,
22 “imitation firearm” means a replica of a firearm that is so
23 substantially similar in physical properties to an existing firearm
24 as to lead a reasonable person to conclude that the replica is a
25 firearm.

26 (n) Committed or attempted to commit a sexual assault as
27 defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal
28 Code or committed a sexual battery as defined in Section 243.4
29 of the Penal Code.

30 (o) Harassed, threatened, or intimidated a pupil who is a
31 complaining witness or a witness in a school disciplinary
32 proceeding for the purpose of either preventing that pupil from
33 being a witness or retaliating against that pupil for being a witness,
34 or both.

35 (p) Unlawfully offered, arranged to sell, negotiated to sell, or
36 sold the prescription drug Soma.

37 (q) Engaged in, or attempted to engage in, hazing. For purposes
38 of this subdivision, “hazing” means a method of initiation or
39 preinitiation into a pupil organization or body, whether or not the
40 organization or body is officially recognized by an educational

1 institution, which is likely to cause serious bodily injury or personal
2 degradation or disgrace resulting in physical or mental harm to a
3 former, current, or prospective pupil. For purposes of this
4 subdivision, “hazing” does not include athletic events or
5 school-sanctioned events.

6 (r) Engaged in an act of bullying. For purposes of this
7 subdivision, the following terms have the following meanings:

8 (1) “Bullying” means any severe or pervasive physical or verbal
9 act or conduct, including communications made in writing or by
10 means of an electronic act, and including one or more acts
11 committed by a pupil or group of pupils as defined in Section
12 48900.2, 48900.3, or 48900.4, directed toward one or more pupils
13 that has or can be reasonably predicted to have the effect of one
14 or more of the following:

15 (A) Placing a reasonable pupil or pupils in fear of harm to that
16 pupil’s or those pupils’ person or property.

17 (B) Causing a reasonable pupil to experience a substantially
18 detrimental effect on his or her physical or mental health.

19 (C) Causing a reasonable pupil to experience substantial
20 interference with his or her academic performance.

21 (D) Causing a reasonable pupil to experience substantial
22 interference with his or her ability to participate in or benefit from
23 the services, activities, or privileges provided by a school.

24 ~~(2) “Electronic act” means the transmission of a communication,~~
25 ~~including, but not limited to, a message, text, sound, or image, or~~
26 ~~a post on a social network Internet Web site, by means of an~~
27 ~~electronic device, including, but not limited to, a telephone,~~
28 ~~wireless telephone or other wireless communication device,~~
29 ~~computer, or pager.~~

30 *(2) “Electronic act” means the transmission, by means of an*
31 *electronic device, including, but not limited to, a telephone,*
32 *wireless telephone, or other wireless communication device,*
33 *computer, or pager, of a communication, including, but not limited*
34 *to, any of the following:*

35 *(A) A message, text, sound, or image.*

36 *(B) A post on a social network Internet Web site, including, but*
37 *not limited to:*

38 *(i) Posting to or creating a burn page. “Burn page” means an*
39 *Internet Web site created for purposes of harming, intimidating,*
40 *threatening, or defrauding another person.*

1 (ii) *Creating a credible impersonation of another actual person.*
2 *“Credible impersonation” means to knowingly and without consent*
3 *impersonate a person in a manner such that another person would*
4 *reasonably believe, or has reasonably believed, that the pupil was*
5 *or is the person who was impersonated.*

6 (iii) *Creating a false profile. “False profile” means a profile*
7 *of a fictitious person or a profile using the likeness or attributes*
8 *of an actual person other than the person who created the false*
9 *profile.*

10 (3) “Reasonable pupil” means a pupil, including, but not limited
11 to, an exceptional needs pupil, who exercises average care, skill,
12 and judgment in conduct for a person of his or her age, or for a
13 person of his or her age with his or her exceptional needs.

14 ~~(s) Knowingly and without consent credibly impersonates~~
15 ~~another actual person through or on an Internet Web site or by~~
16 ~~other electronic means for purposes of harming, intimidating,~~
17 ~~threatening, or defrauding another person, or creates a false profile~~
18 ~~on a social networking Internet Web site for any of those purposes.~~
19 ~~A pupil who engages in conduct as described in this subdivision~~
20 ~~shall be required by the school district to attend a diversion class~~
21 ~~with his or her parents or legal guardian. Upon successful~~
22 ~~completion of the diversion class, the pupil shall not be suspended~~
23 ~~or recommended for expulsion. For purposes of this subdivision,~~
24 ~~the following terms have the following meanings:~~

25 (1) ~~“Credibly impersonates” means to impersonate a person in~~
26 ~~a manner such that another person would reasonably believe, or~~
27 ~~reasonably believed, that the pupil was or is the person who was~~
28 ~~impersonated.~~

29 (2) ~~“Electronic means” shall include opening an e-mail account~~
30 ~~or an account or profile on a social networking Internet Web site~~
31 ~~in another person’s name.~~

32 (3) ~~“False profile” means a profile of a fictitious person or a~~
33 ~~profile using the likeness or attributes of an actual person other~~
34 ~~than the person who created the false profile.~~

35 (t)

36 (s) A pupil shall not be suspended or expelled for any of the
37 acts enumerated in this section, unless that act is related to school
38 activity or school attendance occurring within a school under the
39 jurisdiction of the superintendent of the school district or principal
40 or occurring within any other school district. A pupil may be

1 suspended or expelled for acts that are enumerated in this section
2 and related to school activity or attendance that occur at any time,
3 including, but not limited to, any of the following:

- 4 (1) While on school grounds.
- 5 (2) While going to or coming from school.
- 6 (3) During the lunch period whether on or off the campus.
- 7 (4) During, or while going to or coming from, a
8 school-sponsored activity.

9 ~~(t)~~
10 (t) A pupil who aids or abets, as defined in Section 31 of the
11 Penal Code, the infliction or attempted infliction of physical injury
12 to another person may be subject to suspension, but not expulsion,
13 pursuant to this section, except that a pupil who has been adjudged
14 by a juvenile court to have committed, as an aider and abettor, a
15 crime of physical violence in which the victim suffered great bodily
16 injury or serious bodily injury shall be subject to discipline pursuant
17 to subdivision (a).

18 ~~(v)~~
19 (u) As used in this section, “school property” includes, but is
20 not limited to, electronic files and databases.

21 ~~(w)~~
22 (v) A superintendent of the school district or principal may use
23 his or her discretion to provide alternatives to suspension or
24 expulsion, including, but not limited to, counseling and an anger
25 management program, for a pupil subject to discipline under this
26 section.

27 ~~(x)~~
28 (w) It is the intent of the Legislature that alternatives
29 to suspension or expulsion be imposed against a pupil who is
30 truant, tardy, or otherwise absent from school activities.